

SEVENTY-THIRD DAY

TUESDAY, MAY 13, 1997

PROCEEDINGS

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore Zaffirini.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Fraser, Madla.

The President Pro Tempore announced that a quorum of the Senate was present.

The Reverend Rod Minor, Pastor, Anderson Mill Baptist Church, Austin, offered the invocation as follows:

Father, we come first of all to thank You. You have blessed us as a nation and as a state. Each day we enjoy the blessings that You have made possible for us: for life . . . for the relationships we share . . . for the freedoms we have as a nation . . . and for Your protection. Forgive us for taking those and so many other evidences of Your care for granted. Forgive us for willfully choosing, both individually and corporately, to disregard Your commands and Your wisdom and to make our own, instead. Forgive us for stubbornly trying to make our own light and forge our own path when You have made the way and given light for every step. And then, I pray, this morning, for this governing body. I ask that You would enable them to have wisdom for decisions, for leadership, and for living. Bring to their minds the people they represent. Make each one sensitive to the needs of those citizens and enable them to make decisions based on what is right by Your standards, and what is best for those who have entrusted them with leadership. Lord, I am certain that each one in this chamber has come to understand that he or she cannot please everyone. But I ask You on their behalf, that they will make every effort to govern and lead with integrity of heart and motives that are pure.

We pray these things in the name of the Lord, Jesus Christ. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Ogden, Senator Fraser was granted leave of absence for today on account of important business.

On motion of Senator Lucio, Senator Madla was granted leave of absence for today on account of illness.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

Tuesday, May 13, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 2915, Relating to retirement benefits for certain state employees whose state jobs are lost as a result of contracts to provide services previously provided by the state and to benefits under the contracts.

SJR 33, Proposing a constitutional amendment relating to the purposes for which money in the compensation to victims of crime fund and the compensation to victims of crime auxiliary fund may be used.

(Committee Substitute)

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 3 (105 Yeas 30 Nays)

HB 255 (Viva-voce vote)

HB 358 (Viva-voce vote)

HB 515 (Viva-voce vote)

HB 717 (138 Yeas 0 Nays)

HB 729 (Viva-voce vote)

HB 749 (136 Yeas 0 Nays)

HB 1077 (Viva-voce vote)

HB 1155 (Viva-voce vote)

HB 1879 (Viva-voce vote)

HB 1916 (Viva-voce vote)

HB 2073 (Viva-voce vote)

HCR 208 (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 4

House Conferees: Sadler - Chair/Brimer/Craddick/Hochberg/Stiles

HB 1235

House Conferees: Junell - Chair/Cuellar/Haggerty/Rangel/West

HB 1975

House Conferees: Smithee - Chair/Bonnen/Burnam/Olivo/Wise

HB 2692

House Conferees: Ehrhardt - Chair/Burnam/Hill/Hodge/Madden

HJR 4

House Conferees: Sadler - Chair/Brimer/Craddick/Hochberg/Stiles

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 206

House Conferees: Eiland - Chair/Avcritt/Bonnen/Lewis, Glenn/Van de Putte

SB 758

House Conferees: Serna - Chair/Goodman/King/Place/West

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 1956 by Carona

Relating to the municipal courts of record in Garland.
To Committee on Jurisprudence.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

HB 66 to Committee on State Affairs.

HB 99 to Committee on Finance.

HB 130 to Committee on Intergovernmental Relations.

HB 135 to Committee on State Affairs.

HB 172 to Committee on Jurisprudence.

HB 308 to Committee on Jurisprudence.

HB 405 to Committee on Criminal Justice.

HB 422 to Committee on State Affairs.

HB 625 to Committee on State Affairs.
HB 640 to Committee on Finance.
HB 754 to Committee on State Affairs.
HB 827 to Committee on Natural Resources.
HB 837 to Committee on Criminal Justice.
HB 841 to Committee on State Affairs.
HB 844 to Committee on Criminal Justice.
HB 877 to Committee on Criminal Justice.
HB 881 to Committee on Jurisprudence.
HB 932 to Committee on Health and Human Services.
HB 972 to Committee on Criminal Justice.
HB 1048 to Committee on State Affairs.
HB 1192 to Committee on Jurisprudence.
HB 1317 to Committee on Jurisprudence.
HB 1333 to Committee on Criminal Justice.
HB 1425 to Committee on Jurisprudence.
HB 1468 to Committee on Education.
HB 1510 to Committee on International Relations, Trade, and Technology.
HB 1572 to Committee on State Affairs.
HB 1606 to Committee on Education.
HB 1672 to Committee on Jurisprudence.
HB 1684 to Committee on Criminal Justice.
HB 1700 to Committee on Education.
HB 1882 to Committee on Criminal Justice.
HB 1909 to Committee on Health and Human Services.
HB 1912 to Committee on Criminal Justice.
HB 1918 to Committee on State Affairs.
HB 2029 to Committee on State Affairs.
HB 2063 to Committee on Economic Development.
HB 2065 to Committee on Criminal Justice.
HB 2069 to Committee on Jurisprudence.
HB 2084 to Committee on Health and Human Services.
HB 2086 to Committee on State Affairs.
HB 2096 to Committee on Intergovernmental Relations.
HB 2125 to Committee on Health and Human Services.
HB 2221 to Committee on Economic Development.
HB 2272 to Committee on Jurisprudence.
HB 2283 to Committee on Criminal Justice.
HB 2345 to Committee on Intergovernmental Relations.
HB 2421 to Committee on Jurisprudence.
HB 2431 to Committee on Criminal Justice.
HB 2462 to Committee on Intergovernmental Relations.
HB 2472 to Committee on Health and Human Services.
HB 2488 to Committee on Jurisprudence.
HB 2493 to Committee on State Affairs.
HB 2502 to Committee on Criminal Justice.
HB 2577 to Committee on Intergovernmental Relations.

HB 2615 to Committee on Jurisprudence.
HB 2618 to Committee on Health and Human Services.
HB 2626 to Committee on Health and Human Services.
HB 2693 to Committee on Criminal Justice.
HB 2697 to Committee on Jurisprudence.
HB 2778 to Committee on Finance.
HB 2784 to Committee on State Affairs.
HB 2798 to Committee on Finance.
HB 2868 to Committee on Intergovernmental Relations.
HB 2874 to Committee on Criminal Justice.
HB 2880 to Committee on State Affairs.
HB 2897 to Committee on Criminal Justice.
HB 2899 to Committee on Criminal Justice.
HB 2944 to Committee on Education.
HB 2958 to Committee on Criminal Justice.
HB 2971 to Committee on State Affairs.
HB 3018 to Committee on Health and Human Services.
HB 3048 to Committee on State Affairs.
HB 3087 to Committee on Economic Development.
HB 3100 to Committee on Health and Human Services.
HB 3101 to Committee on Jurisprudence.
HB 3229 to Committee on Criminal Justice.
HB 3563 to Committee on Economic Development.
HB 3567 to Committee on Natural Resources.
HB 3574 to Committee on Natural Resources.
HB 3579 to Committee on Natural Resources.
HB 3583 to Committee on Intergovernmental Relations.
HB 3586 to Committee on Natural Resources.
HB 3587 to Committee on Intergovernmental Relations.
HB 3589 to Committee on Natural Resources.
HB 3590 to Committee on Natural Resources.
HB 3591 to Committee on Intergovernmental Relations.
HB 3592 to Committee on Natural Resources.
HB 3594 to Committee on Intergovernmental Relations.
HB 3602 to Committee on Natural Resources.
HB 3607 to Committee on Natural Resources.
HJR 31 to Committee on State Affairs.
HCR 82 to Committee on Administration.
HCR 176 to Committee on Finance.
HCR 209 to Committee on Education.
HCR 215 to Committee on Health and Human Services.

CAPITOL PHYSICIAN

Senator Wentworth was recognized and presented Dr. Mitchell F. Fannie of San Antonio as the "Doctor for the Day."

The Senate welcomed Dr. Fannie and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

GUEST PRESENTED

Senator Moncrief was recognized and introduced to the Senate Kenneth Barr, Mayor of Fort Worth.

The Senate welcomed Mayor Barr.

SENATE BILL 145 WITH HOUSE AMENDMENT

Senator Nixon called **SB 145** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 145** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the acceptance of gifts by state agencies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 5, Government Code, is amended by adding Chapter 575 to read as follows:

CHAPTER 575. ACCEPTANCE OF GIFT BY STATE AGENCY

Sec. 575.001. DEFINITIONS. In this chapter:

(1) "Gift" means a donation of money or property.

(2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive or judicial branch of state government. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

Sec. 575.002. GIFTS OF \$500 OR MORE. This chapter applies only to a gift that has a value of \$500 or more.

Sec. 575.003. ACCEPTANCE OF GIFT BY STATE AGENCY GOVERNING BOARD. A state agency that has a governing board may accept a gift only if the agency has the authority to accept the gift and a majority of the board, in an open meeting, approves accepting the gift.

Sec. 575.004. RECORD OF GIFT. A state agency that accepts a gift must record the name of the donor, a description of the gift, and a statement of the purpose of the gift in:

(1) the minutes of the governing board of the agency; or

(2) appropriate agency records, if the agency does not have a governing board.

Sec. 575.005. ACCEPTANCE OF GIFT FROM PARTY TO CONTESTED CASE PROHIBITED. A state agency may not accept a gift from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final under Section 2001.144. In this section, "contested case" has the meaning assigned by Section 2001.003.

SECTION 2. Section 401.031, Government Code, is amended to read as follows:

Sec. 401.031. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS BY THE GOVERNOR. ~~[(a)] The office of the governor may solicit and accept gifts, grants, and donations of money or property on behalf of the state for any lawful public purpose [related to the office of governor].~~

~~[(b) The governor may decline to accept a gift, grant, or donation that is made for a specific purpose if the governor determines the gift may not be used reasonably or economically for the designated purpose.]~~

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Nixon, the Senate concurred in the House amendment to **SB 145** by a viva voce vote.

SENATE BILL 728 WITH HOUSE AMENDMENT

Senator Nelson called **SB 728** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 728** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the management, control, disposition, and status of certain state land, including land owned or used for the site of the superconducting super collider research facility.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 465.018, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The authority of the commission to manage, control, market, and dispose of real property and interests in real property is transferred to the General Land Office. The powers conferred on the General Land Office under this subsection are in addition to and not in derogation of any other legal authority the General Land Office has to acquire, manage, control, market, and dispose of real property.

SECTION 2. Subchapter G, Chapter 31, Natural Resources Code, is amended by adding Sections 31.307 and 31.308 to read as follows:

Sec. 31.307. DEDICATION OF ROADS. The commissioner may dedicate roads located on the land used as the site for the superconducting super collider research facility to the county in which the roads are located if the commissioner believes that the dedication will enhance the value of remaining state land.

Sec. 31.308. CONVEYANCE OF SURFACE AND SUBSURFACE ESTATE. (a) In this section, "subsurface estate" means the subsurface acquired by the state to construct or maintain the underground accelerator partially built or proposed to be built as part of the superconducting super collider research facility.

(b) The commissioner shall convey the state's interest in the subsurface estate underlying the surface estate of land used as the site for the superconducting super collider research facility if the owner of the surface estate pays a sum equal to the fair market value of the subsurface estate as determined by the commissioner. After the state conveys its interest in the subsurface estate as provided by this subsection, title to the subsurface estate is reunited with the title to the surface estate.

(c) Unless the instrument of conveyance provides otherwise, a conveyance of the surface estate of land by the state under this subchapter includes the conveyance of the subsurface estate to the extent of the state's interest in the subsurface estate.

(d) The commissioner may adopt rules necessary to implement this section.

SECTION 3. Subchapter G, Chapter 31, Natural Resources Code, is amended by adding Section 31.309 to read as follows:

Sec. 31.309. PREFERENCE RIGHT TO PURCHASE CERTAIN LAND.

(a) A person or the person's heirs who conveyed land to the state for use by the superconducting super collider research facility has a preference right to purchase the same tract of land previously conveyed before the tract is offered for sale by the state to any other person.

(b) A person who has a preference right under this section must pay at least the fair market value for the land as determined by an appraisal conducted by the General Land Office.

(c) This section does not apply to a subsurface estate as defined by Section 31.308.

(d) The commissioner may adopt rules necessary to implement this section.

SECTION 4. Section 23.46(c), Tax Code, is amended to read as follows:

(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted plus interest at the rate provided for delinquent taxes becomes due. A determination that the land has been diverted to a nonagricultural use is made by the chief appraiser. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether the land has been diverted to a nonagricultural use. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable after the change of use occurs. If the additional taxes are due

because of a sale of the land, the assessor for each taxing unit shall prepare and deliver the bill as soon as practicable after the sale occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

SECTION 5. Section 23.55(a), Tax Code, is amended to read as follows:

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether a change in the use of the land has occurred.

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

(b) Section 3 of this Act takes effect January 1, 1998.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 728** by a viva voce vote.

SENATE BILL 358 WITH HOUSE AMENDMENTS

Senator Brown called **SB 358** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 358** in Section 8 of the bill, amended Section 11.04(b)(5), Texas Credit Union Act (Article 2461-11.04, Vernon's Texas Civil Statutes) (on page 12, lines 1 and 2, committee printing), by striking "unless the absence is excused by majority vote of the commission".

Floor Amendment No. 2

Amend **SB 358** as follows:

(1) Strike Section 7 of the bill (page 9, line 20 through page 11, line 1), and substitute the following:

SECTION 7. Chapter 11, Texas Credit Union Act (Article 2461-11.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 11.031 to read as follows:

Sec. 11.031. TRAINING PROGRAM. (a) To be eligible to take office as a member of the commission a person appointed to the commission must complete at least one course of a training program that complies with this section. A Commission member must complete a training program that complies with subsection (b) not later than the 180th day after the date on which the person takes office.

(b) A training program established under this section shall provide information to the member regarding:

(1) the enabling legislation that created the department and its policy-making body to which the member is appointed to serve;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials;

(9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and

(10) the basic principles and responsibilities of credit union management;

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.

(2) On page 20, line 12, after the word "state" strike "guidelines" and substitute "laws, rules, and regulations and instructions promulgated directly from those laws, rules and regulations".

(3) On page 20, line 15, after the word "state" strike "guidelines" and substitute "laws, rules, and regulations and instructions promulgated directly from those laws, rules and regulations".

The amendments were read.

On motion of Senator Brown, the Senate concurred in the House amendments to SB 358 by a viva voce vote.

SENATE BILL 606 WITH HOUSE AMENDMENT

Senator Lucio called SB 606 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend **SB 606** as follows:

(1) In SECTION 1, in proposed Section 74.611(a), Education Code (page 1, lines 13-14, engrossed version), strike "if general revenue funds are specifically appropriated by the legislature for that purpose".

(2) In SECTION 1, at the end of proposed Section 74.611(a), Education Code, after "center" and before the period (page 1, lines 13-14, engrossed version), insert ", including Driscoll Children's Hospital for on-site pediatrics in the counties listed in this subsection".

(3) Add a new SECTION 2 to read as follows and renumber the subsequent sections accordingly:

SECTION 2. Not later than May 31, 1998, the Texas Higher Education Coordinating Board shall prepare an impact statement examining the initial implementation of this Act and shall deliver a copy of the statement to the Board of Regents of The University of Texas System and to the chairs of the standing committees of each house of the legislature with primary jurisdiction over higher education.

The amendment was read.

Senator Lucio moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the conference committee on **SB 606** before appointment.

There were no motions offered.

The President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lucio, Chair; Madla, Zaffirini, Brown, and Ratliff.

**COMMITTEE SUBSTITUTE
SENATE BILL 1155 ON THIRD READING**

Senator Harris moved that the regular order of business be suspended and that **CSSB 1155** be placed on its third reading and final passage.

CSSB 1155, Relating to certain business practices in and licenses for the writing of title insurance.

The motion prevailed by the following vote: Yeas 21, Nays 5.

Yeas: Armbrister, Bivins, Carona, Ellis, Galloway, Harris, Haywood, Lindsay, Luna, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, West, Whitmire, Zaffirini.

Nays: Brown, Gallegos, Lucio, Patterson, Wentworth.

Absent: Barrientos, Cain, Duncan.

Absent-excused: Fraser, Madla.

CSSB 1155 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Barrientos, Brown, Gallegos, Patterson, Wentworth, West, and Whitmire asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 1396 ON SECOND READING

Senator Lindsay asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 1396, Relating to an exception to the open meetings law for certain deliberations of the board of a hospital district.

There was objection.

Senator Lindsay then moved to suspend the regular order of business and take up **SB 1396** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Ogden, West.

Absent-excused: Fraser, Madla.

SB 1396 was read second time.

Senator Lindsay offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1396** as follows:

(1) On page 1, Section 551.085, Government Code, line 7, delete "Board of Directors" and replace with "Governing Board"

(2) On page 1, Section 551.085(2), Government Code, lines 20 and 21, insert the deleted language "before the hospital publicly announces the service or product line."

The committee amendment was read and was adopted by a viva voce vote.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1396** as follows:

On page 1, Section 551.085, Government Code, line 22, delete "board of directors" and replace with "governing board"

The amendment was read and was adopted by a viva voce vote.

SB 1396 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Ogden and West asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1396 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1396** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Ogden, West.

Absent-excused: Fraser, Madla.

SB 1396 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Ogden and West asked to be recorded as voting "Nay" on the final passage of the bill.

GUESTS PRESENTED

Senator Ratliff was recognized and introduced to the Senate a delegation of citizens from Hopkins County.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 1565 ON SECOND READING**

Senator Cain asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1565, Relating to the qualifications and compensation of persons performing examinations of insurance organizations.

There was objection.

Senator Cain then moved to suspend the regular order of business and take up **CSSB 1565** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Nixon, Ogden, Shapleigh.

Absent-excused: Fraser, Madla.

CSSB 1565 was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Duncan, Nixon, Ogden, and Shapleigh asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1565 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1565** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Nixon, Ogden, Shapleigh.

Absent: Barrientos.

Absent-excused: Fraser, Madla.

CSSB 1565 was read third time and was passed by the following vote: Yeas 24, Nays 4. (Same as previous roll call)

(President in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 1491 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1491, Relating to the creation of the self-sufficiency fund to develop job training for certain recipients of the financial assistance program for persons with dependent children.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1491 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1491** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Shapiro.

Absent-excused: Fraser, Madla.

CSSB 1491 was read third time and was passed by the following vote:
Yeas 28, Nays 0. (Same as previous roll call)

HOUSE BILL 1795 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1795, Relating to The University of Texas at Tyler.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1795 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1795** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Haywood.

Absent-excused: Fraser, Madla.

HB 1795 was read third time and was passed by the following vote:
Yeas 28, Nays 1. (Same as previous roll call)

HOUSE BILL 1602 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1602, Relating to dry fire hydrants.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1602** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 93, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 93. ASSUMPTION OF THE RISK AND CERTAIN OTHER AFFIRMATIVE DEFENSES

Sec. 93.001. ASSUMPTION OF THE RISK: AFFIRMATIVE DEFENSE.

(a) It is an affirmative defense to a civil action for damages for personal injury or death that the plaintiff, at the time the cause of action arose, was:

(1) committing a felony, for which the plaintiff [plaintiff] has been finally convicted, that was the sole cause of the damages sustained by the plaintiff; or

(2) committing or attempting to commit suicide, and the plaintiff's conduct in committing or attempting to commit suicide was the sole cause of

the damages sustained; provided, however, if the suicide or attempted suicide was caused in whole or in part by a failure on the part of any defendant to comply with an applicable legal standard, then such suicide or attempted suicide shall not be a defense.

(b) This section [~~chapter~~] does not apply in any action brought by an employee, or the surviving beneficiaries of an employee, under the Workers' Compensation Law of Texas, or in an action against an insurer based on a contract of insurance, a statute, or common law.

(c) In an action to which this section [~~chapter~~] applies, this section [~~chapter~~] shall prevail over any other law.

Sec. 93.002. DRY FIRE HYDRANTS: AFFIRMATIVE DEFENSE.

(a) It is an affirmative defense to a civil action for damages brought against a defendant who is an owner, lessee, or occupant of real property who permits a fire-fighting agency to connect a dry fire hydrant to a source of water on the property or to install a dry fire hydrant on the property that the damages arise from:

- (1) the condition or use of the dry fire hydrant;
- (2) the installation or maintenance of the dry fire hydrant; or
- (3) the failure of the water source to contain an adequate supply of water during a fire.

(b) This section does not apply to:

- (1) an action for damages arising from an act or omission of the owner, lessee, or occupant of real property that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others; or
- (2) an action for damages arising from a condition of the real property on which the dry fire hydrant is located.

(c) In this section:

- (1) "Dry fire hydrant" means a fire hydrant that is connected to a stock tank, pond, or other similar source of water from which water is pumped in case of fire.
- (2) "Fire-fighting agency" means any entity that provides fire-fighting services, including:
 - (A) a volunteer fire department; and
 - (B) a political subdivision of this state authorized to provide fire-fighting services.

SECTION 2. Chapter 2, Property Code, is amended by adding Section 2.002 to read as follows:

Sec. 2.002. DRY FIRE HYDRANTS: AGREEMENT IS PERSONAL.

(a) An agreement between an owner, lessee, or occupant of real property and a fire-fighting agency relating to the connection of a dry fire hydrant to a source of water on the property or the installation of a dry fire hydrant on the property may not bind a subsequent owner, lessee, or occupant of the real property.

(b) In this section:

- (1) "Dry fire hydrant" means a fire hydrant that is connected to a stock tank, pond, or other similar source of water from which water is pumped in case of fire.

(2) "Fire-fighting agency" means any entity that provides fire-fighting services, including:

(A) a volunteer fire department; and

(B) a political subdivision of this state authorized to provide fire-fighting services.

SECTION 3. Section 93.002, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act and that law is continued in effect for that purpose.

SECTION 4. Section 2.002, Property Code, as added by this Act, applies only to an agreement entered into on or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 1997.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

HB 1602 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1602 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1602** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Fraser, Madla.

HB 1602 was read third time and was passed by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 4

Senator Armbrister called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 4** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Bivins, Shapiro, Luna, and Harris.

**CONFERENCE COMMITTEE
ON HOUSE JOINT RESOLUTION 4**

Senator Armbrister called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HJR 4** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HJR 4** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Bivins, Shapiro, Luna, and Harris.

HOUSE BILL 722 ON SECOND READING

Senator Ogden asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 722, Relating to the expansion of the areas where proceeds of the branch campus maintenance tax may be used.

There was objection.

Senator Ogden then moved to suspend the regular order of business and take up **HB 722** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Fraser, Madla.

HB 722 was read second time and was passed to third reading by a viva voce vote.

(Senator Truan in Chair)

SENATE BILL 1446 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1446, Relating to the terms under which insurers may engage in the business of reinsurance in this state.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1446** in Subsection (1), Article 3.10, Insurance Code, as amended by SECTION 1 of the bill (page 1, lines 53 and 54, Senate committee report printing), by striking "including ~~minimum risk transfer~~

~~standards,~~] asset debits or credits," and substituting "including minimum risk transfer standards, asset debits or credits,".

The amendment was read and was adopted by a viva voce vote.

SB 1446 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1446 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1446** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Fraser, Madla.

SB 1446 was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Haywood.

Absent-excused: Fraser, Madla.

(Senator Barrientos in Chair)

HOUSE BILL 1630 ON SECOND READING

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 1630, Relating to the requirements for certain agricultural fences.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **HB 1630** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 2, Present-not voting 1.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Moncrief, Truan.

Present-not voting: Bivins.

Absent-excused: Fraser, Madla.

HB 1630 was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1630** in Section 1 of the bill, in proposed Section 143.028 of the Agriculture Code by adding the following:

(a) A person is not required to fence against animals that are not permitted to run at large. In any county in this State, a person may fence against animals that are permitted to run at large. Except as otherwise provided by this section, a fence is sufficient for purposes of this chapter if it is sufficient to keep out ordinary livestock permitted to run at large.

On page 1, line 8 of paragraph B, insert "in or" between the words "animals" and "out of".

Insert: (c) For any agriculture activity, in any county in this State, a person may construct or maintain a fence on their property of any height and degree of impregnability.

The committee amendment was read.

On motion of Senator Haywood, Committee Amendment No. 1 was tabled by a viva voce vote.

HB 1630 was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

Senator Bivins asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 1630 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1630** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Truan.

Present-not voting: Bivins.

Absent-excused: Fraser, Madla.

HB 1630 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senator Truan asked to be recorded as voting "Nay" on the final passage of the bill.

Senator Bivins asked to be recorded as "Present-not voting" on the final passage of the bill.

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1774 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1774, Relating to the creation of a long-term care pharmacy and a long-term care satellite pharmacy license.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Duncan, Haywood, and Wentworth asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1774 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1774** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 5.

Yeas: Armbrister, Bivins, Cain, Carona, Ellis, Gallegos, Galloway, Harris, Lindsay, Lucio, Luna, Moncrief, Nelson, Ogden, Patterson, Ratliff, Shapiro, Truan, West, Whitmire, Zaffirini.

Nays: Duncan, Haywood, Nixon, Shapleigh, Wentworth.

Absent: Barrientos, Brown, Sibley.

Absent-excused: Fraser, Madla.

SENATOR ANNOUNCED PRESENT

Senator Fraser, who had previously been recorded as "Absent-excused," was announced "Present."

CSSB 1774 was read third time and was passed by the following vote: Yeas 14, Nays 13.

Yeas: Brown, Fraser, Gallegos, Harris, Lindsay, Lucio, Luna, Nelson, Ogden, Patterson, Sibley, West, Whitmire, Zaffirini.

Nays: Armbrister, Barrientos, Bivins, Cain, Carona, Duncan, Ellis, Haywood, Moncrief, Nixon, Shapleigh, Truan, Wentworth.

Absent: Galloway, Ratliff, Shapiro.

Absent-excused: Madla.

HOUSE BILL 880 ON SECOND READING

On motion of Senator Luna and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 880, Relating to the witnessing provisions of the Natural Death Act.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 880 ON THIRD READING

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 880** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 880 was read third time and was passed by a viva voce vote.

HOUSE BILL 722 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 722** be placed on its third reading and final passage.

HB 722, Relating to the expansion of the areas where proceeds of the branch campus maintenance tax may be used.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 722 was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 13, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 248, Congratulating Ben E. Harmon on his retirement as assistant superintendent for student services in the Lewisville Independent School District.

HCR 250, Designating May 13, 1997, as Hopkins County Day.

SCR 69, Commending the Texas Parks and Wildlife Department and the Texas Game Warden Association for their work in creating the Parrie Haynes Youth Camp and Wildlife Conservation Ranch.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

BILLS AND RESOLUTION SIGNED

The Presiding Officer, Senator Truan in Chair, announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

SB 26, SB 174, SB 386, SB 802, SB 863, SB 911, SB 992, SB 1158, SB 1301, SB 1394, SB 1465, SB 1696, SB 1706, SB 1750, SB 1829, SB 1830, SB 1851, HB 120, HB 239, HB 259, HB 394, HB 412, HB 432, HB 806, HB 885, HB 911, HB 950, HB 956, HB 971, HB 1185, HB 1299, HB 1511, HB 1555, HB 2003, HB 2170, HB 2528, HB 2569, HB 2602, HB 2721, HB 3334, HCR 247

HOUSE BILL 1651 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1651, Relating to the resale of property sold to a taxing unit pursuant to foreclosure of an ad valorem tax lien.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1651 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1651** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 1651 was read third time and was passed by a viva voce vote.

HOUSE BILL 1410 ON SECOND READING

The Presiding Officer laid before the Senate **HB 1410** on its second reading and passage to third reading. The bill was read second time, amended, and further consideration was postponed on Thursday, May 8, 1997.

HB 1410, Relating to authorizing economic development corporations to provide affordable housing.

Question—Shall **HB 1410** as amended be passed to third reading?

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1410**, by inserting the following new SECTION in the appropriate location and renumber as appropriate:

SECTION ____ Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by

redesignating Subsection (a-1) as Subsection (a-3) and adding a new Subsection (a-1), (a-4) and amending Subsection (e) to read as follows:

(a-1) Before spending money to undertake a specific project or general type of project, a corporation shall publish notice of the project and hold at least one public hearing on the proposed project. The corporation shall publish notice under this subsection by publishing notice of the project in a newspaper of general circulation in the city or by posting a written notice of the project in a place readily accessible to the general public at all times. The corporation shall publish or post the notice not earlier than 15 days or later than seven days before the scheduled time of the public hearing on the project. Notice required under this subsection is in addition to any notice required under Chapter 551, Government Code.

(a-3) A corporation may undertake a project under this section unless within 60 days after first publishing notice of a specific project or type of general project under Subsection (a-1) of this section the governing body of the city receives a petition from more than 10 percent of the registered voters of the city where the petition requests that an election be held before that specific project or that general type of project is undertaken. An election is not required to be held after the submission of a petition if the qualified citizens of the city have previously approved the undertaking of a specific project or that general type of project at an election called for that purpose by the governing body of the city or in conjunction with another election required to be held under this section.

(a-4) Before spending money to undertake a specific project or general type of project that was not authorized in a previous election, the municipality shall submit to the voters for approval a ballot proposition defining the specific project or general type of projects.

(e) The rate of a tax adopted under this section must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The ballot proposition at the election held to adopt the tax must clearly state that the voters are voting on the adoption of a new sales and use tax, specify the rate of the tax to be adopted, the specific project or general type of project to be undertaken, and identify the proposed use of or purpose for the tax revenue. In addition, if maintenance and operating costs are to be paid from the tax, the ballot language must clearly state that fact. A corporation that holds an election to reduce a tax imposed under Section 4A of this Act may in a separate proposition on the same ballot adopt a tax under this section. If an eligible city adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items within the eligible city at the rate approved at the election. There is also imposed an excise tax on the use, storage, or other consumption within the eligible city of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the eligible city. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

~~[(c) If an eligible city adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items within the eligible city at a rate approved by the governing body of the eligible city. The rate must be~~

~~equal to one-eighth, one-fourth, three-eighths, or one-half of one percent. There is also imposed an excise tax on the use, storage, or other consumption within the eligible city of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the eligible city. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.]~~

RATLIFF
ELLIS

The amendment was read and was adopted by a viva voce vote.

HB 1410 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1410 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1410** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 1410 was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Haywood.

Absent-excused: Madla.

HOUSE BILL 1206 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1206, Relating to the composition of the Municipal Solid Waste Management and Resource Recovery Advisory Council.

The bill was read second time.

Senator Fraser offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1206** as follows:

(1) In SECTION 1, Subdivision (14), Section 363.041, at page 2, line 14, after "facilities" strike "or an educator with knowledge of the design and management of solid waste facilities"

(2) In SECTION 1, Subdivision (16), Section 363.041, at page 2, line 19, after "facility" insert "or an educator with knowledge of the design and management of solid waste facilities"

The committee amendment was read and was adopted by a viva voce vote.

HB 1206 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1206 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1206** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 1206 was read third time and was passed by a viva voce vote.

SENATE BILL 1328 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1328, Relating to the eligibility of certain higher education employees to participate in group programs under the Texas Employees Uniform Group Insurance Benefits Act.

The bill was read second time.

Senator Fraser offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1328** as follows:

- (1) Page 1, line 23, add (x) after (A).
- (2) Page 2, line 5, add (x) after (A).

The committee amendment was read and was adopted by a viva voce vote.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1328** as follows:

- (1) On page 1, SECTION 1, Sec. 13C(a), line 22, add the following after the word "Act": , unless the college elects, in accordance with procedures adopted by the trustee, to permit those employees to participate in those programs.

- (2) On page 1, starting on line 42, delete SECTION 3, and insert the following in lieu thereof:

SECTION 3. This Act takes effect September 1, 1997, and applies only to an employee of a public community/junior college who is newly hired by the college on or after September 1, 1997. An employee described in Section 13C and who is an employee of the college on August 31, 1997.

The amendment was read and was adopted by a viva voce vote.

SB 1328 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1328 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1328** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

SB 1328 was read third time and was passed by a viva voce vote.

HOUSE BILL 2964 ON SECOND READING

On motion of Senator Nixon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2964, Relating to the administration of county roads in Panola County.

The bill was read second time.

Senator Nixon offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2964** by striking on page 1 line 15 the words "Van Zandt", and by striking on page 2, line 2 the words "Van Zandt".

The committee amendment was read and was adopted by a viva voce vote.

HB 2964 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2964 ON THIRD READING

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2964** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 2964 was read third time and was passed by a viva voce vote.

HOUSE BILL 1524 ON SECOND READING

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 1524, Relating to the weight of vehicles transporting recyclable materials.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **HB 1524** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Lindsay.

Absent-excused: Madla.

HB 1524 was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1524** in Section 622.134(b), Transportation Code, on page 2, line 6, by inserting ". to a county any damage to a county road" between "highway" and "and".

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 1524** in Section 622.134(b), Transportation Code, on page 2, line 9, between "municipality" and "." by adding "or a county".

The committee amendment was read and was adopted by a viva voce vote.

HB 1524 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Lindsay asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1524 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1524** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Lindsay.

Absent-excused: Madla.

HB 1524 was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 1180 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1180, Relating to a limitation of liability of a licensed installer or servicer of a liquefied petroleum gas system in a motor vehicle.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1180** as follows:

In SECTION 1, amending Section 113.301, Natural Resources Code

(1) On page 1, line 19, after the word negligent; strike the word "and"

(2) On page 1, line 21, after the word "harm" strike the "." and add "; and"

(3) On page 1, after 21, add the following:

"(6) the person adequately warned of a dangerous condition which was a producing cause of harm."

The committee amendment was read.

On motion of Senator Armbrister, Committee Amendment No. 1 was tabled by a viva voce vote.

HB 1180 was passed to third reading by a viva voce vote.

(Senator Sibley in Chair)

HOUSE BILL 1180 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1180** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

HB 1180 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate a group of students from Calvary Episcopal School of Richmond and their teachers.

The Senate welcomed its guests.

SENATE RULE 11.19 SUSPENDED

(Posting Rule)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider the following bills and resolution today:

HB 2997, HB 3176, HCR 67

SENATE RULE 11.11 SUSPENDED
(Posting Rule)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.11 was suspended in order that the Conference Committee on **HB 4** and the Conference Committee on **HJR 4** might meet today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Health and Human Services might consider **HCR 168** tomorrow.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Cain and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Economic Development might consider **HB 839** today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Bivins and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider the following bills and resolution today:

HB 2010, HB 1468, HCR 209

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Criminal Justice might consider the following bills today: **HB 3278, HB 2257**

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 11:53 a.m. agreed to adjourn, subject to the receipt of Messages from the House and the introduction of bills and resolutions on first reading, until 9:00 a.m. tomorrow.

PERMISSION TO MEET GRANTED

On motion of Senator Truan and by unanimous consent, Senate committees were granted permission to meet while the Senate was At Ease.

AT EASE

The Presiding Officer, Senator Sibley in Chair, at 11:54 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Nelson called the Senate to order as In Legislative Session at 3:13 p.m.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Tuesday, May 13, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 1043, Relating to the issuance of bonds under the Higher Education Authority Act.

HB 1653, Relating to the dating of state publications.

HB 2233, Relating to the statute of limitations for the presentation of certain felony indictments.

HB 2733, Relating to the operation of golf carts on a public road or highway.

HB 2768, Relating to records of the Texas Lottery Commission that are open for public inspection.

HB 2856, Relating to the protection of women's health with respect to services performed at an abortion facility and the right to access certain information relating to abortion facilities.

HB 2993, Relating to the authority of a governing board of an institution of higher education to waive certain fees.

HB 3092, Relating to equipment requirements for certain buses.

HB 3225, Relating to offenses under the Penal Code commonly associated with criminal street gang activity, to law enforcement provisions for investigating those offenses, and to other substantive changes and technical corrections in the Penal Code.

HB 3375, Relating to the creation of the offense of using false identification.

HB 3597, Relating to the creation, administration, powers, duties, operation, and financing of the Parker County Utility District No. 1; granting the power of eminent domain.

HB 3603, Relating to fees to finance capital improvements in certain municipalities.

HCR 204, Directing the Texas Workforce Commission to implement a subsidized work program for unemployed job applicants.

HCR 228, Designating cotton the Official State Fiber and Fabric of Texas.

HCR 229, Declaring the Texas Rio Grande Valley Onion Festival the Official State Onion Festival of Texas.

SB 67, Relating to purchasing procedures used by the institutional division of the Texas Department of Criminal Justice.

SB 94, Relating to the creation, extension, renewal, or modification of deed restrictions applicable to certain residential real estate subdivisions.
(Committee Substitute/Amended)

SB 170, Relating to the rights of a victim of a delinquent child.

SB 199, Relating to the administration of park and recreation districts in certain counties.
(Committee Substitute)

SB 201, Relating to the disposition of freshwater trout stamp fees.

SB 231, Relating to sources of names for the jury wheel.
(Committee Substitute)

SB 264, Relating to the treatment of persons with mental illness.

SB 303, Relating to the fees for transferring license plates for disabled veterans.

SB 323, Relating to judicial training and continuing education for administrative law judges of the State Office of Administrative Hearings.

SB 331, Relating to procedures in a contested case in which the hearing is conducted by the State Office of Administrative Hearings.
(Amended)

SB 396, Relating to local control of fire fighter employment matters in certain municipalities.

SB 403, Relating to funding of the Medicaid disproportionate share program through an assessment imposed against certain hospitals and hospital districts.

SB 417, Relating to a report by the Texas Workforce Commission regarding implementation of the integration of certain state services regarding workforce development.

SB 459, Relating to the membership of a local workforce development board.

SB 478, Relating to the lease of space for a state agency from another governmental entity.

SB 514, Relating to requiring the Health and Human Services Commission to promulgate uniform fair hearing rules for all Medicaid-funded services.

SB 557, Relating to issuance of exempt license plates.
(Committee Substitute)

SB 569, Relating to subdivision platting requirements in certain counties.

SB 570, Relating to the regulation of subdivisions in certain economically distressed counties; providing civil and criminal penalties.

SB 580, Relating to application of the professional prosecutors law to the county attorney of Crosby County.

SB 591, Relating to courses and programs at the University of Houston-Downtown.

SB 600, Relating to the collection and use of certain information by cancer registries.

SB 623, Relating to the regulation of the practice of engineering; providing penalties.

SB 625, Relating to the dissemination of information contained in the juvenile justice information system.

SB 637, Relating to the finality of contested case orders rendered by state agencies.
(Amended)

SB 657, Relating to the creation of intermunicipal commuter rail districts; authorizing a tax; granting authority to issue bonds and power of eminent domain.
(Amended)

SB 693, Relating to standing to enforce restrictions relating to state property.
(Committee Substitute)

SB 698, Relating to research relating to transportation facilities conducted by public senior colleges and universities for the Texas Department of Transportation.

SB 735, Relating to the oversight of rail fixed guideway system safety.
(Committee Substitute)

SB 771, Relating to the licensing of the name, logo, and other artwork of the Texas Commission on the Arts.

SB 781, Relating to the creation and operation of the Texans Work program and the establishment of individual development accounts in the Texas employment and training account for certain recipients of public assistance.
(Committee Substitute)

SB 786, Relating to the authority of pharmacists to administer immunizations and vaccinations.

SB 798, Relating to alternative dispute resolution in certain family-related suits.
(Committee Substitute)

SB 820, Relating to the establishment and operation of an electronic procurement marketplace, including an electronic commerce network.
(Amended)

SB 843, Relating to requiring the Texas Natural Resource Conservation Commission to study a tracking system for hazardous waste required to be returned to the United States under the La Paz Agreement.

SB 939, Relating to control of tuberculosis in certain jail populations.

SB 991, Relating to permitting certain disabled persons to apply for and receive a state parklands passport.

SB 1014, Relating to the representation of a property owner by an agent in a property tax matter.

SB 1016, Relating to speed limits on highways near institutions of higher education.

SB 1108, Relating to the effect of certain regulations adopted by a joint airport zoning board.

SB 1127, Relating to the operation of certain military installations as businesses by development corporations.

SB 1179, Relating to testimony given before a county commissioners court; providing a penalty.

SB 1211, Relating to the meetings of a commissioners court of a county.

SB 1233, Relating to exemption from inscription requirements for an automobile used by a municipal or county medical examiner.

SB 1268, Relating to disclosure of driver's license record information held by the Department of Public Safety of the State of Texas.

SB 1269, Relating to the duties of the tax assessor-collector regarding certain tax receipt records.

SB 1277, Relating to powers and duties of emergency services districts.
(Amended)

SB 1295, Relating to licensure of certain international medical students who have successfully completed a Fifth Pathway Program.

SB 1352, Relating to licensing and regulation of certain pilots, pilotage rates, and pilot service.

SB 1403, Relating to the establishment and funding of a blindness education, screening, and treatment program.
(Amended)

SB 1437, Relating to the exemption from and limitations on ad valorem taxes on the residence homestead of an elderly individual and the individual's surviving spouse and to the termination of that exemption if that homestead ceases to be the homestead of that elderly individual or surviving spouse.

SB 1519, Relating to the authority of the Texas Workforce Commission to accept donations.

SB 1600, Relating to the authority of a political subdivision to regulate coastal erosion and coastal flooding.
(Amended)

SB 1601, Relating to the authority of certain coastal counties to regulate development in flood-prone areas.
(Amended)

SB 1621, Relating to the disposition of the City of Lubbock's auditorium-coliseum complex located on real property conveyed to the

municipality by Texas Tech University.
(Committee Substitute)

SB 1656, Relating to the authority to dissolve the Sebastian Municipal Utility District or transfer certain of its assets and obligations.
(Amended)

SB 1722, Relating to municipal regulation of dangerous structures.

SB 1736, Relating to service by members of the municipal governing body on a board of adjustment in certain municipalities.

SB 1756, Relating to an exemption from regulation under the Private Investigators and Private Security Agencies Act for certain nonprofit medical alert service providers, persons obtaining public records, and persons obtaining certain documents for use in litigation.
(Committee Substitute)

SB 1828, Relating to enforcement of vehicle weight and safety restrictions.

SB 1865, Relating to the administration, management, operation, and authority of water districts.
(Committee Substitute/Amended)

SB 1903, Relating to the acceptance of gifts, grants, and donations by the secretary of state.

SB 1924, Relating to the creation of municipal courts of record in Coppell.

SCR 14, Directing the Texas Health and Human Services Commission to develop a plan to coordinate long-term care service delivery and administration.

SCR 35, Directing the Texas Natural Resources Conservation Commission et al. to work with Congress and federal agencies to develop a comprehensive management plan for the Rio Grande Basin.
(Amended)

SCR 42, Encouraging business schools and business programs at Texas colleges and universities to increase their course offerings to include courses that focus on small and medium-sized businesses.

SCR 55, Authorizing the burial of Sam L. Kelley in the State Cemetery.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 1043 to Committee on Education.

HB 1653 to Committee on State Affairs.

HB 2233 to Committee on Criminal Justice.

HB 2733 to Committee on State Affairs.

HB 2768 to Committee on State Affairs.
HB 2856 to Committee on Health and Human Services.
HB 2915 to Committee on State Affairs.
HB 2993 to Committee on Education.
HB 3092 to Committee on State Affairs.
HB 3225 to Committee on Criminal Justice.
HB 3240 to Committee on Intergovernmental Relations.
HB 3350 to Committee on State Affairs.
HB 3375 to Committee on Criminal Justice.
HB 3377 to Committee on Criminal Justice.
HB 3597 to Committee on Natural Resources.
HB 3603 to Committee on Intergovernmental Relations.

CONGRATULATORY RESOLUTIONS

SR 715 - by Zaffirini: Congratulating Sister Muriel Rose Boyle, O.S.U., of Laredo.

SR 716 - by Zaffirini: Congratulating Concepcion C. Rodriguez of Laredo.

SR 717 - by Whitmire: Congratulating Charles Harrison Campbell of Houston.

SR 718 - by Lindsay: Congratulating Jeff Triffo of Houston.

SR 719 - by Gallegos: Congratulating Charles Louis Joekel of Houston.

SR 720 - by Brown: Commending The Dow Chemical Company, Texas Operations.

SR 721 - by Barrientos: Congratulating the Manor High School girls' volleyball team.

SR 722 - by Barrientos: Congratulating the Park Crest Middle School Science Olympiad Team.

SR 723 - by West: Congratulating Essie B. Moore of Dallas.

SR 724 - by West: Commending Shaun Children's Place of Dallas.

SR 725 - by West: Commending Reby Cary of Fort Worth.

SR 726 - by Nelson: Congratulating Dr. Justin Wakeland of Dallas.

SR 727 - by Nelson: Congratulating Kelly Bradley of Tarrant County.

MISCELLANEOUS RESOLUTIONS

SR 714 - by Brown: Declaring May 30, 1997, Tom DeLay Day in Texas.

HCR 250 - (Ratliff): Designating May 13, 1997, as Hopkins County Day.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 3:15 p.m. adjourned until 9:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

May 13, 1997

JURISPRUDENCE — HB 3281, HB 3190, HB 3060, HB 3012 (Amended),
HB 2702, HB 2531, HB 2526, HB 2297, HB 2156, HB 2145, HB 1825,
HB 1576, HB 1463, HB 1291, HB 787, HB 784, HB 740, HB 732,
HB 546, HB 1128, SB 1172

INTERGOVERNMENTAL RELATIONS — HB 110, HB 2083, HB 2203,
HB 1974, HB 3266, HB 3550, HB 1203, HB 1585, HB 2649, HB 2666,
HB 2920, HB 3372, HJR 96

JURISPRUDENCE — CSSB 1840

INTERGOVERNMENTAL RELATIONS — CSHB 2335, CSSB 1735

SIGNED BY GOVERNOR

May 9, 1997

SB 120, SB 161, SB 163, SB 446, SB 460, SB 484, SB 492, SB 538,
SB 590, SB 634, SB 730, SB 800, SB 819, SB 886, SB 1060, SB 1487,
SB 1755

May 12, 1997

SB 997, SB 1386

SENT TO GOVERNOR

May 13, 1997

SB 330, SB 715, SB 884, SB 898, SB 900, SB 1422, SB 1490, SB 1751

